

equipment 10. The scheduler 41 scans the category labels TIL of the particular program to schedule advertisements based on the timing of certain levels of program content in the program. Based on the TIL, certain advertisements may or may not be displayed based on the TIL.

Applicant notes with appreciation that claim 47 has been indicated as allowable if rewritten in independent form and claims 27 and 31 have been indicated as being allowable. However, Applicant's remaining independent claims are considered to afford Applicant a scope of protection to which he is entitled in light of the art relied upon in the Office Action.

On page 3 of the Office Action, the Examiner cites column 4, lines 33-44 of Hite as disclosing the features recited in claims 45 and 61.

A review of Hite at column 3, lines 43-64 discloses that each commercial is analyzed based on a commercial identifier (CID) code that is appended to it. The commercials are then delivered to the point of usage. Hite classifies commercials into three categories: 1) non-preemptable, 2) conditionally preemptable, or 3) unconditionally preemptable. Depending upon the circumstances in which each of these types of commercials are to appear in a program, the types of priorities and classifications associated with the commercials may be set. For instance, higher priority commercials may be substituted for commercials classified as unconditionally preemptable. The preemptable commercials have a CID to indicate under what circumstances a more suitable commercial may be substituted.

The cited portion of Hite in the rejections states that a context code can be appended to the commercials CID code. Hite goes on to imply that the context code is compared with program identification codes appended to the program signals.

The commercial is displayed if it is in a specific channel or network or show. In the example given in the cited reference, a skiing equipment commercial is shown during a downhill skiing race broadcast.

Referring to the disclosures in columns 3 and 4 of Hite, the display of the commercial is based on preempting another commercial or simply displaying a specific type of commercial anywhere during the entire broadcast of a context specific show.

In contrast, exemplary embodiments encompassed by Applicant's independent claims 45 and 61, schedule an advertisement to be presented within a predetermined time interval of the content of the information having the at least one aspect. As described above, the scheduler 41 may be programmed to schedule a commercial of a particular advertiser within five minutes of the instance of certain content or conversely twenty minutes after the display of a certain content. (See pp. 55, lines 2-14 of Applicant's Specification). Applicant's disclosed system can provide advertisers with the ability to schedule advertisements to certain audiences and avoiding associations with material which the advertiser may feel is objectionable. It is respectfully submitted that Hite fails to teach scheduling the presentation of an advertisement within a predetermined time interval of the content of the information as encompassed by claims 45 and 61. Therefore, the rejection of claims 45 and 61 should be withdrawn.

Independent claims 63 and 65 are also allowable. These claims recite a scheduling step wherein an advertisement is presented outside of predetermined time interval of an occurrence of the instantaneous content level above a predetermined threshold value. In addition to the above features, Hite does not

disclose the feature of scheduling the presentation when the content level is above a predetermined threshold value.

At column 4, lines 33-44, Hite merely discloses that the "commercial is displayed if it is in a specific channel or network or show." Hite does not disclose content having a predetermined threshold value, which has a value, such as VS-0 to VS-7, as disclosed in Applicant's specification and recited in the claims. In fact, other than the recitation in column 4, at lines 33-44, and column 7 of the summary of the invention, Hite does not disclose a context code.

Accordingly, Hite does not disclose or suggest an advertisement scheduled within a predetermined time interval of the content of the information having the at least one aspect. Hite also fails to disclose or suggest scheduling an advertisement outside of a predetermined time interval of an occurrence of the instantaneous content level. Hite does not disclose or suggest that the instantaneous content level is above a predetermined threshold value as recited in the claims.

Hite's commercials are prescheduled and it is predetermined where they will be presented during a program. Only once a commercial (e.g. ski equipment) is matched with a program (e.g. downhill ski show) are previously scheduled commercials preempted by those commercials that may have a comparable context code appended to the commercial's CID code. There is no scheduling of the commercial within a predetermined interval of the determination that the content is above a predetermined threshold value or of the content of the information having the at least one aspect.

Accordingly, withdrawal of the rejections of claims 63 and 65 is also respectfully requested. Dependent claims 62 and 64 are considered allowable for reasons already discussed with respect to the independent claims.


Independent claims 34 and 66 recite features similar to claims 61, 63 and 65. For the reasons stated above, Hite does not disclose or suggest all of the features recited in the above claims. Accordingly, it is respectfully requested that the rejections of claims 34 and 66 be withdrawn.

Should any questions arise in connection with this application, or should the Examiner believe a telephone conference would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

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